

FEB 19 2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

| | | |
|------------|--|-------------------------------|
| Applicant | : Derek Mitsumori et al. | |
| Appln. No. | : 10/629,521 | Confirmation No: 6045 |
| Filed | : 29 July 2003 | Group Art Unit: 2616 |
| Title | : SYSTEM AND METHOD FOR MONITORING COMMUNICATIONS IN A NETWORK | Examiner: Chandrahas B. Patel |
| | | Docket No. 519-037-USP |

**SUBMISSION OF EXTENSION FEE PAYMENT FOR NON-FINAL OFFICE ACTION
IN AN ABANDONED APPLICATION**

Via Facsimile 571-273-8300
U.S. Patent and Trademark Office
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The undersigned attorney hereby submits payment of the Extension Fee for Non-Final Office Action in the above-referenced matter, which stands abandoned due to failure to respond to the Non-Final Office Action mailed 04 May 2007, within the statutory period.

The above-referenced patent application was abandoned 18 November 2007. A Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b) (Petition) is being filed contemporaneously with this submission, and attached to that Petition are the following:

1. Petition for Extension of Time Under 37 CFR 1.136(a) (3 months - \$1050.00)
2. Power of Attorney and Assignee Statement with attachments

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Please charge the Extension Fee of \$1050.00 to Deposit Account 50-3199. Authorization is hereby given to charge any additional fees that may be required to Deposit Account 50-3199.

Respectfully submitted,

Date: 19 February 2008

/Damon A. Rieth/

Damon A. Rieth Reg. No. 52167
Attorney for Applicant
USPTO Customer No. 69693

HENSLEY KIM & HOLZER, LLC
1660 Lincoln Street, Suite 3050
Denver, Colorado 80264
Tel: 720-377-0770
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PTO/SB/64 (09-08)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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| | | |
|---|-------------------------------|---|
| PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) | | Docket Number (Optional) 5630/07 / 519-037-USP |
| First named inventor: Derek Mitsumori | Art Unit: 2616 | |
| Application Number: 10/629,521 | Examiner: Chandrahas B. Patel | |
| Filed: 29 July 2003 | | |
| Title: SYSTEM AND METHOD FOR MONITORING COMMUNICATIONS IN A NETWORK | | |
| <p>Attention: Office of Petitions Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450</p> <p>NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571)272-3282.</p> <p>The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.</p> <p>APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION. NOTE: A grantable petition requires the following items: (1) Petition fee; (2) Reply to Office Action dated 04 May 2007 with extension fee (3) (Not Required) Terminal disclaimer with disclaimer fee required for all utility and plant applications filed before June 8, 1995, and for all design applications; and (4) Statement that the entire delay was unintentional.</p> <p>1. Petition fee to revive <input type="checkbox"/> Small entity - fee \$ _____ (37 CFR 1.17(l)). Applicant claims small entity status. See 37 CFR 1.27. <input checked="" type="checkbox"/> Other than small entity - fee \$ <u>1,540</u> (37 CFR 1.17(l)).</p> <p>2. Reply and/or fee A. The following three replies: <u>Petition to Revive Unintentionally Abandoned Application</u> (identify the type of reply): <u>Amendment and Response to Non-Final Office Action dated 04 May 2007 and IDS</u> (identify the type of reply) <input checked="" type="checkbox"/> Petition fee has been noted in above (1. Petition fee). <input checked="" type="checkbox"/> "Unintentionally Abandoned" statement in page 3 herein.</p> <p>B. Other than Small entity fee for response within third Month \$1050.00 <input type="checkbox"/> has been paid previously on _____ <input checked="" type="checkbox"/> is enclosed herewith.</p> | | |

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This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.
02/20/2008 10:00:00 AM 00000265 503199 10629521

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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137(b)

3. Terminal disclaimer with disclaimer fee
- Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ ____ for a small entity or \$ ____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).
4. For fees authorized to be paid hereinabove, the Commissioner is hereby authorized to charge the fees, any deficiency of fees, and credit of any overpayments to Deposit Account No. 503199.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

/Damon A. Rieth/

15 February 2008

Signature

Date

Damon A. Rieth

52,167

Typed or printed name

Registration Number, if applicable

Hensley Kim & Holzer

720-377-0770

Address

Telephone Number

1660 Lincoln Street, Suite 3000, Denver, CO 80264

Address

- Enclosures:
- Fee Payment Petition to Revive Unintentionally Abandoned Application fee = \$1540.00
- Reply to Office Action mailed 04 May 2007 with 3-month Petition for Extension and Extension fee \$1050.00
2 independent claims in excess of 3 = \$420.00
- Terminal Disclaimer Form (Not Applicable)
- Page 3 herein containing statements establishing unintentional delay
- Information Disclosure Statement with IDS Fee Payment \$180.00, European Search Report and IDS Certificate

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is being:

- deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
- transmitted by FACSIMILE TRANSMISSION (571) 273-8300 on the date shown below to the United States Patent and Trademark Office.

19 February 2008

/Sara B. McPeak/

Date

Signature

Sara B. McPeak

Typed or printed name of person signing certificate

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PTO/SB/64 (09-06)

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

NOTE: The following showing of the cause of unintentional delay must be signed by all applicants and by any other party who is presenting statements concerning the cause of delay.

/Damon A. Rieth/

19 February 2008

Signature

Date

Damon A. Rieth

52,167

Typed or printed name

Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply)

STATEMENT UNDER 37 CFR 1.137(b)(3)

Pursuant to 37 CFR 1.137 (b) (3), the entire delay in filing a reply to the Non-Final Office Action mailed May 4, 2007 was unintentional.

The Non-Final Office Action was sent to Thelen, Reid, Brown, Raysman & Steiner LLP (Thelen) which had the Power of Attorney on 04 May 2007. Thelen did not forward the Notice of Allowance to the Applicant (Level 3 Communications) or the undersigned until 17 December 2007. As such, the Undersigned and the Applicant did not receive the Non-Final Office Action until 1 ½ months after the Final Response deadline for the Non-Final Office Action. The Undersigned and the Applicant have diligently worked to obtain assignments from the inventors in order to change the Power of Attorney and correspondence address.

Dated: 2.19.08

Signed

/Damon A. Rieth/
Damon A. Rieth
Hensley Kim & Holzer
1660 Lincoln Street, Suite 3000
Denver, CO 80264
Phone: 720-377-0770

(Please attach additional sheets if additional space is needed.)

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